

**January 13, 1999**

The Honorable Dan Burton  
Chairman  
Committee on Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Burton:

I am writing to share with you my views regarding your plans for organizing the Committee. I am concerned that the Committee rules, budget and subcommittee ratios you have proposed are unfair to the minority. I hope that we can reach an accommodation on these issues before the Committee meets to organize in the coming weeks.

## **I. COMMITTEE RULES**

As I noted in my January 5, 1999, letter to you, I believe that the rules you are proposing improperly divest the Committee of a role in the issuance of subpoenas. Committee rule 18 would once again allow the chairman to unilaterally issue subpoenas without a Committee vote. In fact, proposed rule 18 gives the chairman even more power to issue subpoenas than was permitted under procedures adopted at the end of the last Congress, which, while inadequate, at least provided for review of proposed subpoenas by a working group made up of majority and minority members.

During the 105th Congress, your use of the subpoena power caused great friction between the majority and the minority on the Committee. You unilaterally issued 758 subpoenas. In some instances, these subpoenas were mistakenly issued for the bank records of the wrong individuals or attempted to compel the production of tax preparation materials in violation of federal law. In addition, over 99% of these subpoenas targeted alleged Democratic fundraising abuses while ignoring evidence of possible Republican fundraising abuses.

These unilateral actions broke with the longstanding precedent on this Committee — and in the House — to reach consensus before issuing subpoenas. In fact, no Democratic chairman in the post-McCarthy era ever issued a subpoena without minority concurrence or a vote of the Committee, a tradition that continued almost without exception under Republican control in the 104th Congress. As noted in a March 6, 1996, letter from Chairman William Clinger to Ranking Minority Member Cardiss Collins, Committee precedent required that the Chairman "shall not authorize [a] subpoena without your concurrence or the vote of the committee." Chairman Clinger went on to describe this policy as "the longstanding practice of this committee to seek consensus on the issuance of a subpoena."

I propose that we adopt a subpoena rule that reflects this "longstanding practice." Specifically, I propose that we amend Committee rule 18(d) to add before the ";," the following:

"after consultation with the ranking minority member. If the ranking minority member objects to the subpoena, the committee shall determine whether to authorize and issue the subpoena by vote, except that the chairman may authorize and issue the subpoena without a committee vote if emergency circumstances are present"

I commit to you that I will operate under this rule if I become chairman in the future, and I urge you to do likewise at this time. We should adopt a rule that is fair regardless of which party is in the minority. This proposal meets this test because it provides an appropriate means for the minority to object to the issuance of subpoenas while allowing subpoenas to be issued by the Chairman without delay if warranted by exigent circumstances.

## II. BUDGET

I understand that you intend to allocate only 25% of the Committee budget to the minority. This proposed budget runs contrary to the stated policy of the Chairman of the House Administration Committee and is fundamentally unfair.

In the 104th Congress, Chairman Thomas stated:

To ensure fairness to all Members, the Republicans, when they were in the minority, argued that all committees should allocate at least one-third of resources to the minority. As the new majority, Republicans remain committed to achieving that goal. . . . Our goal is to have all Committees, with the agreement of the chairman and the ranking minority member, provide at least a one-third allocation of resources, for use by the minority as directed by the ranking minority member, as soon as practicable.<sup>1</sup>

Chairman Thomas reaffirmed this position in the 105th Congress. In his opening statement at the March 5, 1997, House Oversight Committee hearing on committee budgets, Chairman Thomas said, "I would reiterate today that we are committed to reaching the one-third level. It is, in many instances, an incremental process. Our goal is to see if we have moved closer in those committees that were farthest apart and we have maintained it in those committees that already had it." On March 6, 1997, in specific reference to your proposal to give the minority only 25% of the Committee's budget, Chairman Thomas assured me that he would do all he could to try to increase the minority's share to one-third in future years.

Chairman Thomas reiterated this position yet again at the March 25, 1998, House Oversight Committee hearing on providing additional funds to the Government Reform and Oversight Committee from the Speaker's reserve fund. In response to my letter reminding him of his pledge, Chairman Thomas said that Republicans "remain committed to that goal and we will work toward that goal. . . . That was the promise then and that is the commitment now."

Not only is your proposed budget in conflict with these policies, it provides the Government Reform Committee minority with a disproportionately small share of the budget compared to other committees. In the 105th Congress, the following committees allocated one-third of the available staff positions to the minority: Agriculture, Budget, House Oversight, International Relations, Rules, Science, Small Business, Transportation, Veterans' Affairs, and Ways and Means. Virtually all other committees also allocated a higher percentage of staff slots or budget to the minority than you are proposing.<sup>2</sup>

In the last election, Democrats won 49% of the seats in the House, and we have been allocated 45% of the seats on the Government Reform Committee. We cannot serve the needs of nearly half the members with only 25% of the Committee's budget. At a minimum, we should be allocated one-third of the staff slots and budget.

## III. SUBCOMMITTEE RATIOS

I also believe that the proposed subcommittee ratios are moving in the wrong direction. Under your proposal, the minority actually has a smaller percentage of subCommittee Assignmentss than in either of the last two Congresses, even though Democrats gained seats in the House in both the 1996 and 1998 elections. In the 104th Congress, under Chairman Clinger, the minority received over 43% of the subCommittee Assignmentss. In the 105th Congress — your first as Chairman — the minority increased its seats in the House but was allocated under 42% of the subCommittee Assignmentss. Under your proposal for the 106th Congress, the minority would have only 40% of the subCommittee Assignmentss even though the minority makes up nearly 49% of the House.

Since I was first elected to the House in the 94th Congress, subcommittee ratios on the Government Operations Committee under Democratic control averaged 4.5 percentage points higher for the

Committee majority than for the House majority. Subcommittee ratios on the Postal and District of Columbia Committees, which were merged into the Government Reform Committee in the 104th Congress, were 2 and 1.6 percentage points higher for the majority than the House ratios, respectively. Similarly, in the 104th Congress, under Chairman Clinger, the ratio of majority subCommittee Assignmentss was 4.6 percentage points higher than the House ratio.

In the 105th Congress, however, the difference between the subcommittee ratios and the House ratio increased to 6.2 percentage points. Your proposal for the 106th Congress increases this difference even further to unprecedented levels. Under this plan, the minority would receive only 40% of the subCommittee Assignmentss even though the minority holds almost 49% of the seats in the full House — a difference of 9 percentage points. I believe that this proposal is fundamentally unfair.

Mr. Chairman, we should move beyond the partisanship that characterized our Committee in the 105th Congress. I would like to work with you to reach an agreement on these organizational issues, and I hope you will consider accepting my suggestions before the Committee votes on your proposal.

Sincerely,

Henry A. Waxman  
Ranking Minority Member  
cc:Members of the Committee on Government Reform

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Footnotes

1Committee on House Oversight, Funding Resolution Report for the 104th Congress, H. Rpt. 104-74, 104th Cong., 1st Sess., at 7 (emphasis added).  
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2The Banking Committee minority received 30% of the staff slots and committee budget; the Education and the Workforce Committee minority received 30% of the budget and 29% of the staff slots; the Commerce Committee minority received 29.5% of the committee budget and 23.3% of the staff slots; the Resources Committee minority received an estimated 30% of the budget and staff slots; and the Judiciary Committee minority received 22.5% of the budget and staff slots, but one-third of the resources for the impeachment investigation. The Committees on Appropriations and National Security have nonpartisan staff.